
MONTANA LOGGING ASSOCIATION

...from the desk of **Keith L. Olson**, *Executive Director*
Phone: 406-752-3168 ... Fax: 406-756-9574 ... Email: keith@logging.org

November 21, 2005

HCP Planning Team
2705 Spurgin Road
Missoula, MT 59804

Attention: HCP Planning Team:

The Montana Logging Association (MLA) provides the following initial comments regarding our areas of concern with the seven draft Conservation Strategies pertaining to the Montana DNRC Forested Trust Lands Habitat Conservation Plan (HCP).

The MLA represents nearly 600 independent logging contractors from across the forested regions of Montana—all of which operate family-owned business that harvest and transport logs from forest to mill. As such, the State forest lands managed by DNRC are very important to the members of the Montana Logging Association.

Timber harvested from State forested lands is important to Montana's forest products industry and local rural economies... furthermore, and just as importantly, DNRC relies on the expertise and professionalism of MLA members to provide the technical services and other resources needed to harvest its timber. Additionally, we appreciate the fact that stumpage revenue generated from these forested trust lands is important to our state's infrastructure and funding for public schools.

Please be advised that it is with considerable reservation that we have monitored the development of the State's HCP proposal. Even though we believe the State is proceeding with the best ecological intentions—we are not convinced that DNRC has provided a compelling case for an HCP... and we are further concerned about the potential for unintended consequences a formulated HCP might lead to.

Our concern is borne out of the twenty-plus years of failed federal land resource management planning policies and the fact that the development of strict standards and guidelines at the federal level has become the target for the detractors of timber harvesting.

As your detractors focus on the standards and guides within the HCP, the State may well get caught in an ever-ending tail chase of trying to satisfy a moving target. As is the case with federal resource managers, the State may never be able to meet the bar that your critics demand. This inability to manage is exactly why the federal planning rules have abandoned standards and guides for a more inspirational approach to resource and species management.

In light of these concerns, if the State elects to continue the development a HCP, we caution that the draft Conservation Strategies must not negatively affect the DNRC's ability to intensively manage its forests at current levels. **Nor can we support these strategies, or the HCP and incidental take permit application, should they in anyway reduce current sustained yield harvest levels from DNRC forested school trust lands.**

In addition, we are concerned that compliance with some of the conservation practices may result in lower competitive bid stumpage prices paid to the DNRC and, thereby, ultimately lower the return to State Trust Land beneficiaries. Also, there must be an on-going financial

commitment for DNRC employee training, which will become an important component for successful HCP implementation. Other areas of primary concern with the draft Conservation Strategies are outlined below:

Organizational Structure – We believe every effort should be made to ensure that DNRC and USFWS staff (current & future), special interest groups, lawyers and the general public can accurately interpret the Conservation Strategies. Therefore;

- Identical formats should be used to structure the content of these documents. The current drafts do not follow the same outline. The Canada Lynx Conservation Strategy and the Grizzly Bear Conservation Strategy begin with an “Overview and Rationale”. The Aquatic Conservation Strategies report begins with an “Introduction”.
- Within the “Overview and Rationale” section of the Canada Lynx Conservation Strategy, its author describes DNRC’s Business Goals. Those goals are not referenced in either of the other two Conservation Strategies, leading the reader to wonder if DNRC’s business goals are somehow different for Grizzly Bears and Native Trout.
- Although the Grizzly Bear and Aquatic Conservation Strategy highlight the “Existing Conservation Strategy”, the Lynx Strategy does not reference an existing conservation strategy. We believe that since the Lynx was listed as “threatened” in 2000, DNRC already follows a conservation strategy for that specie and should outline those current practices, with reference to applicable ARMS. The Aquatic’s Strategy, in particular, provides an excellent format and combination of references to ARMs, other laws, regulations, policies and MOUs as well as discussion regarding their implementation to describe the Current Strategy. We suggest that the Lynx Strategy and Grizzly Bear Strategy both strengthen their “Existing Conservation Strategy” by following that model.
- We also believe that the intent of DNRC’s HCP should be identical for all species. However, in the “Overview and Rationale” for the Lynx, the author writes that “This strategy minimizes impacts of forest management activities on Canada lynx, while allowing sufficient management flexibility for DNRC to meet its fiduciary and stewardship trust responsibilities.” The same section of the Grizzly Bear strategy says that “...the conservation strategy supports federal recovery efforts and ESA requirements while providing for the continuation and flexibility of DNRC to meet its fiduciary and environmental trust responsibilities.” The Aquatic Strategy references “restoration of habitat” but less clearly states its support for federal recovery efforts, and does not go so far to say the strategies are intended to minimize impacts on forest management activities.

We are not sure how to articulate the legal obligations the DNRC has regarding the Endangered Species Act (ESA) for each species, but are positive that the wording should be clearer and more consistent as it pertains to specific protection, enhancement or restoration objectives and compliance with federal law without stepping beyond its obligations within the HCP.

Transitional Land Strategy –

- Section Two, Item D “Federal Condemnation and Unforeseen Circumstances”, pertains to the net loss of habitat commitment and seeks to clarify DNRC’s obligations in the case of federal condemnations or unforeseen circumstances. We believe the term “unforeseen circumstances” is too vague and not sufficient enough to withstand possible intense legal scrutiny. DNRC legal staff should review and probably change this language to lessen the chances of misinterpretation in future years.
- # 2 ENDNOTE - The second sentence refers to “DNRC’s proportionate share in the projected growth...”. It is unclear to us what ‘growth’ is referenced. Since apparently

this ‘growth’ will effect the 5 & 10% threshold limits related to forest management activities in grizzly bear habitat, we believe a clear definition of ‘growth’ is warranted.

Lynx Conservation Strategy

- We recommend that the report start off with an illustration depicting the trust lands that fall within the animal’s “range” (an undefined word used in the “Overview & Rationale” section) & include a table that shows these acres by Land Office.
- We need to fully understand how many acres of Forested Trust Lands will be impacted by the Lynx Conservation Strategy, which is very difficult to determine from the Strategy document. We suggest including an illustration to help the reviewer understand differences between the eight (8) different types of habitat referenced in the Strategy (Lynx Habitat, Non-lynx Habitat, Suitable Lynx Habitat, Potential Lynx Habitat, Temporary Non-Suitable Habitat, Other Suitable Habitat and Winter Forage Habitat & Young Forage Habitat). Include a table that illustrates the number of acres in each. Include a more detailed table for each Lynx Management Area.
- We do not clearly understand the acreage differences between the LMA (Table 1-1) and the Total Potential Lynx Habitat (Table 2-2). We think that will be clarified if new more detailed tables are included per the above recommendation, but as written does not provide needed information.
- In Section 2.2.2 “Rate of Habitat Conversion” in the LMAs. We do not feel this single sentence adequately explains the agreed upon 15% conversion rate per decade from DNRC initiated actions. Nor does this section adequately anticipate or allow for variances due to other factors. In particular, forest management intensity on the Seeley Lake and Garnet LMAs is also influenced by other public agencies (USFS & BLM). These agencies frequently do not manage the vegetation on their lands at an intensive rate – and that rate of intensity has lessened in the last decade. We believe this Section should be expanded and modified to anticipate changes that would allow for higher conversion rates if other condition allow for those changes without negatively effecting lynx habitat.
- The title of Section 3.2 of Monitoring Commitments states the “DNRC will report identified lynx den sites annually where mitigations were applied on its ownership”. However, the text of that section does not refer to the method of monitoring that will be used to identify or report den sites, except for den sites on blow-down salvage areas. The title is misleading and we recommend that the title of this section be re-worded, as the primary focus of this section appears to be reporting acres and percentages of habitat instead of den sites.

Grizzly Bear Conservation Strategy –

- Section 2 “Existing Conservation Strategy” does not adequately describe DNRC’s current approach to Grizzly Bear conservation. Recitation of the ARMs pertaining to Grizzly Bear management in the Swan Valley Grizzly Bear Conservation Agreement (SVGBCA), the Stillwater and Coal Creek State Forests and other lands in western and eastern Montana only provides the legal basis for certain practices. The Conservation Strategy must describe how this new approach meets the requirements for an incidental take permit, which becomes more difficult to ascertain if the current approach is not fully explained. We recommend a complete description of DNRC’s existing conservation strategy, similar to the approach used in the Aquatic Conservation Strategy, especially the Sediment Delivery Reduction Conservation Strategy section.

- Section 3.1.5 “Active Den Site Protections” (on all HCP parcels) – We actually believe that DNRC should seek to identify grizzly bear dens prior to initiation of forest management activities, possibly during the scoping process when possible.. From an operating standpoint, suspending on-going forest management activities due to the recent finding of a den is very unproductive, especially since the operating season for harvest activities is already highly regulated on most forest lands. We also realize that a new den site finding is possible after activities begin, but strongly suggest that the wording be expanded to better describe the suspension period. For instance, if a den is discovered on July 15 of 2006, does this new commitment require suspension of activities through May 31st of 2007. This section needs some examples of how suspensions would be administered as related to dates of discovery.
- Section 3.1.6 (2a) - “Cover Retention in Riparian & Wetland Management Zones” (on all HCP parcels). We anticipate needing written clarification for the Salvage exception that allows for removal exceeding 50% of trees greater than 8” DBH, but does not specify where such additional removal may occur. Nor does this section clearly state the upper limit of removal intensity – if 100% removal of salvage trees will be allowed, then the Conservation Strategy should clearly state that limit. In Section 3.1.6 (2b) we anticipate needing quantifiable metrics regarding ‘adequate shade and coarse wood debris’ requirements.
- Section 3.2.1 – “New Open Road Construction (in non-recovery occupied habitat)”. We would like this section to read: “There is no target or cap on total road densities. Existing roads that are restricted will generally remain restricted, except in cases where access easements are granted. Specific easement needs are not known at this time and are difficult to anticipate. Additional open roads will be needed, but DNRC shall avoid construction of new open roads to the extent possible in order to reduce the displacement risk to grizzly bears from open roads.” This approach makes DNRC’s commitments clearer and less subject to concerns about later interpretation.
- Section 3.3.4 (1& 2) “Grazing Restrictions” (in Recovery Zones). #1 should clarify if DNRC will prohibit assignment of small livestock licenses from one license holder to another. We believe that weed control is essential even in Recovery Zones and that DNRC should commit to retaining the current level of this control practice. #2 should clarify what DNRC’s obligation is regarding the ‘will not initiate’ commitment – does this commitment mean that DNRC will prohibit authorization?
- Section 3.4 “Stillwater Block Commitments”. The Northwest Land Office traditionally offers the majority of timber sale volume sold by DNRC. The Conservation Strategy clearly limits (on some lands it prohibits) new road construction in this Block, a commitment we cannot agree to until we know how this restriction will affect timber sale volumes from this area during the 50 year period.
- Section 3.5 “Swan River State Forest Commitments”. We suggest clarification on two issues of this commitment. First, is there a provision for amendments to the SVGBCA, which currently governs forest management on the Swan River State Forest. The proposed HCP provides for seamless implementation if the SVGBCA is dissolved, but perhaps the existing Plan will be amended or otherwise modified in the future – we suggest a pre-planned strategy to address that possibility so that an EIS, HCP amendment and MEPA/NEPA processes will not become necessary. Secondly, the proposed Conservation Strategy should reveal the potential impact on forest management activity levels, particularly harvest volumes, if it is implemented, compared to the present restrictions under the SVGBCA.
- Section 3.7 “Cabinet-Yaak Ecosystem Commitments” – We understand the ESA requirements for higher levels of mitigation in the CYE, but are doubtful that further

restriction of forest management activities on DNRC Trust Lands in the CYE can significantly decrease the risk of incidental takings. Nor do we believe that further restrictions will measurably help increase this subpopulation. These lands appear so sufficiently scattered, and comprise such a minimal amount of habitat, that adherence to more restrictive exceptions to the 8 year rest period and Spring Period will not yield benefits. We believe that adherence to the commitments detailed in Section 3.6 “Scattered Lands in Recovery Zones” would adequately protect the DNRC from incidental takings in the CYE, with the addition of the measures specified in Section 3.7.4 “Expedited Program for Reducing Open Road Densities”. It is possible we would agree to waive our reluctance to embrace these more restrictive measures when actual impacts to timber harvest levels in the Libby and Plains Units are calculated and explained.

Aquatic Conservation Strategies for Bull Trout, Westslope Cutthroat Trout and Columbia Redband Trout

Riparian Harvest Conservation Strategy –

- Section 2.4 “Proposed Monitoring & Adaptive Management”. We believe that adaptive management practices related to LWD, in-stream shade and temperature targets should also provide for the possibility that monitoring may reveal that the mitigation measures could exceed the goals for these targets. Exceeding these goals could possibly be determined as detrimental to HCP fish species or other resources, especially with advances in science that could occur in the next fifty years. As written, the three monitoring objectives do not address a process that would be followed if the mitigation measures are exceeded.

Sediment Delivery Reduction Strategy-

- Section 3.3.4 (1) “Proposed Conservation Strategy for Reducing Potential Sediment Delivery from Timber Harvest, Site Preparation and Slash Treatments”. We believe that timber harvest volume is less important than acreage when evaluating potential sediment delivery rates. We recommend that DNRC formulate minimum sale area acreage metrics rather than use timber harvest volume to determine when a DNRC water resource specialist becomes involved in the process.
- Section 3.4.4 (2) “Monitoring and Adaptive Management Commitments for Reducing Potential Sediment Delivery from Timber Harvest, Site Preparation and Slash Treatments”. See comments immediately above regarding timber harvest volume vs. sale area acreage as a trigger for qualitative assessments.

Fish Connectivity Conservation Strategy-

- Section 4.1 “Conservation Strategy Overview and Rationale”. Although we are not opposed to ‘collaboration with MFWP and other stakeholders’, we recommend those relationships and the responsibilities/accountability involved in the review process become clarified. We believe MFWP can provide significant technological and practical knowledge as it relates to road-stream crossings and encourage DNRC to utilize this expertise.

Grazing Conservation Strategy –

- Section 5.3 (10a) “Proposed Conservation Strategy, Monitoring and Adoptive Management for Grazing”. Core bull trout habitat represents the greatest potential for

DNRC mandated corrective actions; these corrective actions are the responsibility of the licensee (5.3 (11 b & 11d)). We recommend that DNRC alert licensees that utilize areas with actual verified problems that corrective actions may be necessary in order to use the parcel before the next grazing season. In other words, we suggest advance communication with potentially impacted licensees become a documented priority in order to avoid surprises and prevent non-compliance.

Cumulative Watershed Effects Conservation Strategy –

- The proposed conservation strategy does not address mitigation of forest health issues that could result in or exacerbate negative cumulative effects on a watershed. We believe a watershed that provides appropriate water quality for the HCP covered fish species depends on healthy, resilient forest vegetation. It is well-documented that many Montana forests are at severe risk for high-intensity wildfires due to high fuel loading levels. Often, forest management activities, including commercial harvest, are necessary to return a forest to healthy conditions. Similarly, insects and disease are epidemic in some forested areas of Montana. These threats to forest health are also a threat to western Montana watersheds, and thus to the covered fish species. We recommend that DNRC articulate the extent of such obvious threats in the conservation strategy and thereby position itself to mitigate these conditions within the scope of this conservation strategy.

We appreciate the opportunity to provide these initial comments on DNRC's Conservation Strategies. Should DNRC determine there is a compelling Please feel free to contact us with any questions or to discuss and clarify our recommendations.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Keith Olson", written in a cursive style.

Keith Olson
MLA Executive Director